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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re application of)	Group Art Unit:
)	3654
Wolfgang Günter RUCKMANN)	
Horst Bernhard MICHALIK)	Examiner:
)	John Q. Nguyen
Application No. : 09/926,175)	
)	
Filed : January 7, 2002)	
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For : PAPER WEB)	
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SUBMISSION OF APPELLANT'S AMENDED BRIEF UNDER 37 CFR § 41.37(d)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notification of Non-Compliant Appeal Brief, mailed to the undersigned on January 11, 2005 in the subject U.S. patent application, there is submitted herewith Appellant's Amended Brief Under 37 CFR § 41.37(d). The filing fee was paid at the time of the submission of the original Brief on November 23, 2004. No additional fee is believed to be required in connection with this submission. If any such fee is required, it is to be charged to the deposit account No. 10-1213 of the undersigned.

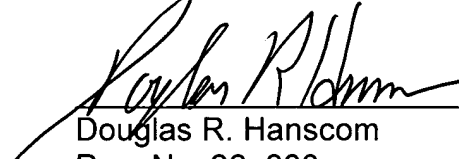
It is believed that this Amended Brief complies with 37 CFR § 41.37 and that it overcomes all of the reasons for non-compliance stated in the notification mailed January 11, 2005. Entry of this Amended Brief into the file of the subject application is

respectfully requested.

Respectfully submitted,

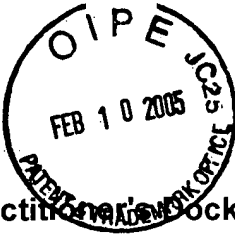
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Practitioner's Socket No. W1.1639 PCT-US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Wolfgang Gunter RUCKMANN, Horst Bernhard MICHALIK

Application No.: 09/926,175

Group No.: 3654

Filed: January 7, 2002

Examiner: John Quoc Nguyen

For: PAPER WEB DRAW-IN DEVICE FOR A WEB-FED PRINTING PRESS

**Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

ATTENTION: Board of Patent Appeals and Interferences

APPELLANT'S AMENDED BRIEF UNDER 37 C.F.R. § 41.37(d)

This amended brief is in furtherance of the Notice of Appeal, filed in this case on September 23, 2004, and is submitted in response to the Notification of Non-Compliant Appeal Brief (37 CFR § 41.37) mailed on January 11, 2005.

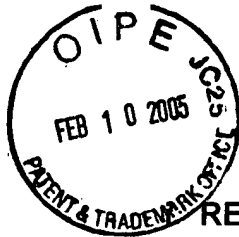
The fees required under 37 CFR § 41.20(b)(2), and any required petition for extension of time for filing this brief and fees therefor, were paid on November 23, 2004. It is requested that any additional fees which may be required in connection with this submission be charged to the deposit account No. 10-1213 of the undersigned.

This brief contains the following items, under appropriate headings, and in the order indicated in 37 CFR § 41.37(c)(1)(i) to (c)(1)(x).



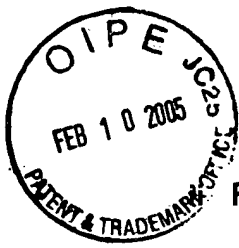
- i. REAL PARTY IN INTEREST
- ii. RELATED APPEALS AND INTERFERENCES
- iii. STATUS OF CLAIMS
- iv. STATUS OF AMENDMENTS
- v. SUMMARY OF CLAIMED SUBJECT MATTER
- vi. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL
- vii. ARGUMENTS
- viii. APPENDIX OF CLAIMS INVOLVED IN THE APPEAL

The final page of this brief bears the practitioner's signature.



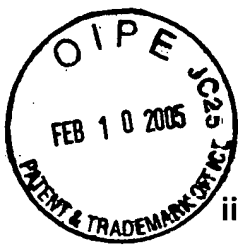
REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i))

The real party in interest in this appeal is the assignee KOENIG & BAUER
AKTIENGESELLSCHAFT, Patentabteilung, Friedrich-Koenig-Str. 4, 97080 Wurzburg,
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RELATED APPEALS AND INTERFERENCES
(37 C.F.R. § 41.37(c)(1)(ii))

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are none.



iii STATUS OF CLAIMS (37 C.F.R. § 41.37(1)(iii))

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

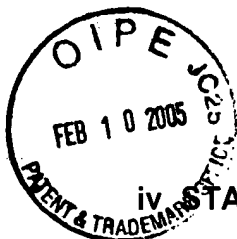
Claims in the application are: Claims 35, 46-48, 51-53.

B. STATUS OF ALL THE CLAIMS IN APPLICATION

1. Claims previously canceled: 1-34, 36-45, 49, 50, 54-71.
2. Claims withdrawn from consideration but not canceled: None.
3. Claims pending: 35, 46-48, 51-53.
4. Claims allowed: 53.
5. Claims rejected: 35, 46-48, 51, 52.

C. CLAIMS ON APPEAL

The claims on appeal are: 35, 46-48, 51, 52.



iv STATUS OF AMENDMENTS (37 C.F.R. § 41.37(c)(1)(iv))

Claims 35, 46-48, 51 and 52 were finally rejected on May 27, 2004. A Request for Reconsideration was filed on August 27, 2004. Claims 35, 46-48, 51 and 52 were not amended by that Request. An Advisory Action was mailed on September 20, 2004. That Advisory Action indicated that the Request for Reconsideration filed August 27, 2004 would be entered for purposes of appeal. It was stated that the Request had been considered but that it did not place the application in condition for allowance. The Final Rejection of May 27, 2004 was deemed to still apply.

v SUMMARY OF CLAIMED SUBJECT MATTER (37 CFR § 41.37(c)(1)(v))

Claim 35 is the sole independent claim involved in the subject appeal. The following is a concise explanation of the subject matter defined in claim 35, referring to the Second Substitute Specification by page and line number, and to the drawings by figure number and reference character. Every means plus function is identified.

Claim 35 recited a device, traction means 33, 34 as seen in Figs. 1, 2, and 6, and as described at page 9, ¶ 056 lines 14-17; page 10, ¶ 058 lines 1-9; for drawing in at least one paper web 05, 06, 07, 12 as seen in Fig. 1, and as described at page 8, ¶ 054 lines 6-10; page 8 ¶ 055 lines 11-13. The device comprises:

A paper web draw-in, traction means 33, 34 as discussed above, having a length, including a first, spike bearing portion and a second, spike-free portion. In this context, note the discussion at page 16, ¶ 075 of the Second Substitute Specification and specifically at lines 14-23 thereof and at line 1 of page 17. Also refer to Figs. 1 and 2 of the drawings which show the traction means 33 and 34 with spikes 35 extending over a first portion of the length of the traction means 33, 34.

The plurality of spikes 35 are spaced apart from each other on the first, spike bearing portion of the paper web draw-in. Again reference is directed to Figs. 1 and 2 for a depiction of the draw-in devices 33, 34 and the spikes 35 which are attached to only the first, spike bearing portion of the draw-in, again as discussed in detail at page 16, ¶ 075, lines 14-23 of the Second Substitute Specification. The plurality of spikes 35, penetrate through a paper web 05, 06, 07, only during paper web draw-in along a paper web path. That path is constituted by the hopper plate 21, the hopper flanks 22, 23 and the hopper flank plates 55, 65, all as discussed at page 16, ¶ 075, and seen in Figs. 1 and 2. The “hopper” is a portion of a so-called paper web longitudinal folding hopper whose purpose

is to place a central, longitudinal fold in the paper web or webs. Hopper 18 is seen in Figs. 1 and 2 and is discussed at page 12, ¶ 063, lines 9-15.

Means for moving the paper web draw-in is constituted by the provision of traction wheels 37 and 38, as seen in Figs. 1 and 2, and discussed at page 9 of the Second Substitute Specification, ¶ 058, starting at line 19. This discussion continues at the top of page 10. The traction wheels 37 and 38 are driven by drive motors 54 and 56, again as seen in Fig. 1. These drive motors are recited at page 17 of the Second Substitute Specification, ¶ 079, lines 15-19.

The path of the paper web draw-in, i.e. traction means 33, 34 is also defined by guide rollers 43, 44, 47, 48, 49, 50. These are seen in Figs. 1 and 2 and are discussed at page 16 of the Second Substitute Specification, ¶ 075, lines 11-13. They are also seen at Fig. 2 and define the web storage path recited in claim 35 into which the first, spike bearing portion of the paper web draw-in is moved after completion of the drawing in of the paper web along the paper web path.

Again, as discussed at page 16 of the Second Substitute Specification, ¶ 075, the second, spike free portion of the paper web draw-in is located in contact with the paper web 05, 06, 07 along the paper web path; hopper plate 21, hopper flanks 22, 23 and hopper flank plates 55, 65 at the completion of drawing in of the paper web along the paper web path. The first, spike bearing portion of the paper web draw-in 33, 34 is now located behind or beneath these hopper parts and is supported by the guide rollers 43, 44, 47, 48, 49 and 50, again as seen in Figs. 1 and 2, and discussed at page 16, ¶ 075.

**vi GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL
(37 C.F.R. § 41.37(c)(1)(vi))**

Claims 35, 51 and 52 were rejected under 35 USC 102(b) as being anticipated by U.S. patent No. 4, 619,449 to Fischer. Claims 35, 46-48, 51 and 52 were rejected under 35 USC 102(b) as being anticipated by U.S. patent No. 3,367,549 to Assony.

With respect to Fisher, it was asserted that web draw-in 2 has a circumferential length with spikes 6. The portion of draw-in 2, with spikes used during draw-in is then moved out of engagement with the paper web.

With respect to Assony, it was asserted that Assony shows web draw-in 11, 12, 15, spikes 21 and means, including element 25 for causing the spikes to penetrate the paper web only during draw-in. Assony was asserted as showing that the spikes 21 include paper web retention devices and that the draw-in is in the form of a belt that could be metallic or non-metallic.

vii ARGUMENT (37 C.F.R. § 41.37(c)(1)(vii))

A. Claims 35, 51 and 52 are anticipated by U.S. patent No. 4,619,449 to Fischer.

I. Claim 35 is anticipated by U.S. patent No. 4,619,449 to Fischer.

It is respectfully asserted that Fischer does not anticipate, or render obvious the structure of the device for drawing in at least one paper web, as set forth in independent claim 35, as presented in the Request for Reconsideration, and as appended to this Brief. Independent claim 35 recites that the device comprises a paper web draw-in which has a length. That length includes a first, spike bearing portion and a second, spike free portion. A plurality of spikes are spaced apart from each other at a first distance and are attached to only the first, spike bearing portion of the web draw-in. The spikes are adapted to selectively penetrate through a paper web only during draw in of the web along a paper web path. The paper web path is substantially greater, in length, than the first distance which is the distance at which each of the spikes is spaced apart from adjacent spikes in the first, spike bearing portion of the draw-in. The draw-in has means for moving it to cause the spikes on the first, spike bearing portion to penetrate the web only during draw in and to move the first spike, bearing portion to a storage path upon completion of the web draw-in. This movement of the first, spike bearing portion to the storage path does two things. It removes the spikes from their penetration of the web upon completion of the draw-in. It also moves the second, spike free portion of the paper web draw-in into contact with the paper web along the paper web path upon completion of the draw-in.

The Fischer patent, No. 4,619,449 was cited as showing a web draw-in 2 that has a plurality of spikes 6 on it. The portion of the draw-in 2 with spikes was asserted, in the Final Office Action, as being moved out of engagement with the paper web. The second spike-free portion of claim 35 was asserted as reading on any portion of the Fischer device 2 between any two spikes not between the 3 and 12 o'clock position. It is respectfully asserted that the interpretation of the Fischer reference in the Final Office Action is incorrect.

In the Fischer device there is shown a folding apparatus. A plurality of paper webs 8 are folded longitudinally as they pass down over a generally triangular fold former 1, as seen in Fig 1. A pair of folding rollers 5 pull the paper webs 8 off the folding former 1. An inlet or supply roller 2 is situated at the inlet to the folding former 1. This inlet or supply roller 2 is formed with a plurality of projections 6. As is clearly evident in Fig. 2, the projections 6 are spaced equally about the entire circumference of the inlet or supply roller 2. A spacing distance between adjacent ones of the projections 6 is uniform about the entire periphery of the supply roller 2. The supply roller 2 is always in contact with the plurality of webs 8 at the inlet to the fold former 1.

A number of differences exist between the Fischer device and the device for drawing-in a paper web, as recited in currently pending claim 35. The paper draw-in device of claim 35 is recited as having a length with that length including a first, spike bearing portion and a second, spike-free portion. Claim 35 then recites that there are a plurality of spikes spaced apart from each other at a first distance and attached to only the first, spike bearing portion.

Fischer shows no such structure. In Fischer, the entire length of the circumference of the roller 2 has spikes 6 spaced apart from each other at a first distance. There is no spike-free portion of the length of the roller 2 of Fischer. The Final Office Action recites that the “first spike bearing portion” reads on the portion of element 2 of Fischer between the 3 o’clock and 12 o’clock positions, as shown in Fig. 2. The only portion of roller 2 of Fischer that engages a paper web is the portion below 12 o’clock and 3 o’clock. Assuming that it is that portion which the Examiner asserts is the “first, spikes bearing portion,” how is that portion different from the rest of the surface of the roller 2? In fact, it is not. The assertion that the second spike-free portion reads on the portion between any two spikes not below the “3 o’clock and 12 o’clock position is not correct. It is also not correct, as asserted in the Final Rejection, that all portions of element 2 are in contact with the paper.

Claim 35 recites a paper web draw-in divided into two portions, a first, spike bearing portion and a second, spike free portion. Only the first, spike bearing portion has a plurality of spikes spaced apart from each other at a distance. Those spikes are used to draw the paper along a paper web path which has a length that is substantially greater than the spacing distance between spikes. At the completion of the draw-in, the first, spike bearing portion is moved to a storage path so that the spikes are pulled out of the paper. The second, spike free portion is then in contact with the paper web along the paper web path. The length of that paper web path is recited as being substantially greater, in length, than the spacing distance between adjacent ones of the spikes in the spike-bearing portion of the draw-in device.

The Fischer patent does not have a first, spike bearing portion and a second, spike free portion of the surface of roller 2. Since only the spike bearing portion of the paper web draw-in of claim 35 has the plurality of spaced-apart spikes, the Fischer reference cannot have a second, spike-free portion with a length substantially greater than the spike spacing distance. Additionally, the spiked portion of the roller 2 of Fischer is always in contact with the paper webs 8. There is no spike-free portion that is in contact with the paper web along the paper web path.

As noted previously, the subject invention is directed to a device for drawing in a paper web. While it is understood that the preamble of a claim does not limit the scope of a claim, it does set forth the environment in which the device operates. The web draw-in device of claim 35 is used in a very different manner than is the supply roller 2 of Fischer. It has a recited structure that is also very different from the structure shown in Fischer. These very significant structural differences are functions of the two distinct tasks which the two devices are intended to accomplish. Claim 35 recites a structure that is very different from the structure shown in Fischer. The draw-in device recited in claim 35 is not anticipated, or rendered obvious by the driven supply roller 2 of Fischer.

It is believed that the final rejection of claim 35 as being anticipated by U.S. patent No. 4,619,449 is incorrect. It is requested that this rejection be reversed.

II. Claims 51 and 52 are anticipated by U.S. patent No. 4,619,449 to Fischer

Claims 51 and 52 depend from believed allowable claim 35 and are also not

anticipated by Fischer. Claim 51 recites that the draw-in has a finite length. The roller 2 of Fischer is provided with an endless circumference. Claim 52 recites that the spikes are provided with paper web retention devices. There is not showing or suggestion of such devices in Fischer.

For the reasons set forth above, it is believed that the final rejection of claims 51 and 52 as being anticipated by U.S. patent No. 4,619,449 is incorrect. It is requested that this rejection be reversed.

B. Claims 35, 46-48, 51 and 52 are anticipated by U.S. patent No. 3,367,549 to Assony.

I. Claim 35 is anticipated by U.S. patent No. 3,367,549 to Assony

It is respectfully asserted that Assony does not anticipate, or render obvious the structure of the device for drawing in a paper web, as recited in currently pending independent claim 35.

The patent to Assony is directed to a collator stripper belt. As depicted in Fig. 1, a paper web 10 is to be transported over a top surface of a table, generally at T. The paper web 10 has a side edge with a plurality of punched holes 20. The web 10 is comprised of a plurality of individual sheets 16 that are interleaved by carbon sheets 17, as shown in Fig. 2. Essentially the Assony device shows a tractive feeder for a form.

As depicted in Figs. 1 and 3, the web 10 is moved across the table T by the operation of an endless belt 15. Belt 15 is supported between sprockets 11 and 12, one of which is driven by motor 14. The belt 15 has a plurality of pins 21 that are arranged in a longitudinally extending row and which are spaced apart at the same distance as the holes 20 in the web 10.

A second, endless member 25 is interposed between the web 10 and the upper run of belt 15. It is also provided with spaced holes 26 which are set at the same spacing as the pins 21 and as the holes 20 in the web 10. This second endless member 25 has a

length greater than that of the first belt 15. It is driven along with belt 15 and passes over an idler 28 that is spaced apart from sprocket 11. The purpose of the second flexible endless member 25 is to act as a stripper. When the belt 15 passes around the sprocket 11, as shown in Fig. 3, it is possible that the web 10 could, in the absence of the stripper 25, continue, along with belt 15, around the sprocket. The stripper 25 prevents this.

Fig. 4 of Assony shows a second embodiment of the invention. In this configuration, the pins are evenly spaced around a sprocket 31. This configuration eliminates the endless belt 15. The pins are now carried on the circumference of the sprocket 31. The stripper belt is now denoted at 35. It performs the same function in the second embodiment, as it did in the first.

In the Final Office Action, it was asserted that Assony shows a web draw-in 11, 12, 15, spikes 21 and means, including element 25 for causing the spikes to penetrate the paper web only during draw-in. It was further asserted that the second spike-free portion reads on the portion between any two spikes or on the portion of the element 25 without spikes.

It is respectfully submitted that this rejection is incorrect for essentially the same reasons as were set forth with respect to the rejection based on the Fischer reference. Assony shows a structure that is not the same as, or that would render obvious the structure of the device recited in claim 35 as currently pending in the subject U.S. patent application. Claim 35 recites a paper web draw-in having a length which includes

a first, spike bearing portion and a second, spike free portion. A plurality of spikes are spaced apart from each other at a first distance along only the first, spike bearing portion. The spikes penetrate the web only during draw-in of the web along the paper web path. The length of the paper web path is substantially greater than the first distance.

Claim 35 further recites means for moving the draw-in device to a position in which the first, spike bearing portion is no longer in the web travel path but is now in a storage path. The second, spike free portion of the draw-in is then in contact with the paper web along the paper web path. This is done at the completion of the web draw-in to allow the paper web to pass freely along the paper web path, out of contact with the spikes.

In Assony, there is no second, spike free portion that is in contact with the paper web along the path of web travel when the first, spike bearing portion is moved to a storage path. As was the case with Fischer, the entire length of the belt 15 or the entire circumference of the sprocket 31 is provided with pins 21. There is no first spike bearing portion and second spike free portion of the belt 15 or sprocket 31 of Assony. The assertion that the second, spike free portion of claim 35 reads on the portion of Assony between any two spikes is not correct. Claim 35 recites that the first spike bearing portion includes a plurality of spaced spikes. There is no time, in the operation of the Assony device, in which a second, spike free portion of the web draw-in is in contact with the paper web along the paper web path. At all times, the spike bearing portion of the Assony device is in contact with the web. There is no second, spike free portion in either the belt 15 or the sprocket 31 of Assony.

The element 25 of Assony has no spike bearing portion. It is a separate element that also does not anticipate, or render obvious the structure of the device for drawing in a web, as set forth in currently pending claim 35. Stripper belt 25 or 35 functions in conjunction with belt 15 or sprocket 31, respectively. It has no first, spike bearing portion with a plurality of spikes and no second, spike free portion that is in contact with a paper web along the paper web path upon completion of the draw-in and the associated movement of the first, spike bearing portion to its storage path.

It is believed that claim 35, as currently pending, is not anticipated by the Assony reference. Reversal of the rejection of claim 35 is thus respectfully requested.

II. Claims 46-48, 51 and 52 are anticipated by U.S. patent No. 3,367,549 to Assony

Claims 46-48, 51 and 52 depend from believed allowable currently pending claim 35. Their final rejection is also respectfully traversed. In claim 51 it is recited that the draw-in has a finite length. As was the case in Fischer, both of the belt 15 and the sprocket 31 of the Assony device are endless. Claim 52 recites that the spikes have paper web retention devices. The mere recitation in Assony that the paper web is retained on the spikes is not a positive recitation of paper web retention devices on the spikes. The spikes pierce the web. The paper web retention devices act to retain the pierced web on the spikes. Claims 46-48, 51, and 52 are thus also believed to be allowable. Their rejections, as being anticipated by Assony, should be reversed.

viii CLAIMS APPENDIX (37 C.F.R. § 41.37(c)(1)(viii))

A copy of each of the claims whose final rejections are being appealed is submitted. This appendix does not include claims previously cancelled and also does not include allowed claim 53.

35. (Previously Presented) A device for drawing in at least one paper web in a web-fed rotary printing press, said device comprising:

a paper web draw-in, said paper web draw-in having a length said length including a first, spike bearing portion and a second, spike-free portion;

a plurality of spikes spaced apart from each other at a first distance and permanently attached to only said first, spike bearing portion of said paper web draw-in, said plurality of spikes being adapted to selectively penetrate through a paper web only during paper web draw-in along a paper web path in a web-fed rotary printing press, said paper web path being substantially greater in length than said first distance; and

means moving said paper web draw-in for causing said spikes on said first, spike bearing portion of said length of said paper web draw-in to penetrate a paper web only during said drawing in of a paper web into a web-fed rotary printing press along said paper web path and for moving said first, spike bearing portion of said paper web draw-in to a storage path for removing said spikes from penetration of a paper web upon completion of said drawing in of a paper web along said paper web path, said second, spike-free portion of said paper web draw-in being in contact with said paper web along said paper web path upon completion of said drawing in of a paper web along said paper web path.

46. (Previously Presented) The device of claim 35 wherein said paper draw-in is a belt.

47. (Previously Presented) The device of claim 46 wherein said belt is metallic.

48. (Previously Presented) The device of claim 46 wherein said belt is non-metallic.

51. (Previously Presented) The device of claim 35 wherein said draw-in has a finite length.

52. (Previously Presented) The device of claim 35 further including paper web retention devices on said spikes.

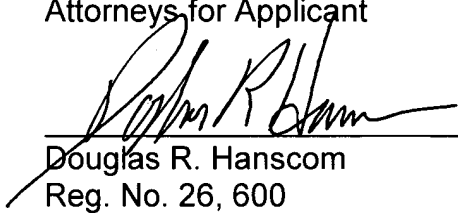
SUMMARY

The Final Rejection of claims 35, 46-48, 51 and 52 is appealed. This Appellant's Amended Brief is believed to present support for the reversal of the final rejection of these claims. Allowance of the claims and passage of the application to issue is respectfully requested.

Respectfully submitted,

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Horst Bernhard MICHALIK
Applicants

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